

# WEBINAR

# WEDNESDAYS



**Wednesday, July 14, 2021**

## VICTIMS' RIGHTS IN DEPENDENCY CASES

Presented by:

**Colleen Clase**

Chief Counsel, Arizona Voice for Crime Victims

**Meg Garvin**

Executive Director of the National Crime Victim Law Institute

**Rebecca Kahlil**

Staff Attorney, National Crime Victim Law Institute

**&**

**Rob Swinford**

Associate Attorney, Arizona Voice for Crime Victims

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3838 N. Central Ave., Suite 850

Phoenix, Arizona 85012

ELIZABETH BURTON ORTIZ

EXECUTIVE DIRECTOR



# Child-Victims Involved in Multiple Justice Systems

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HONORING AND PROTECTING VICTIMS' RIGHTS IN  
DEPENDENCY PROCEEDINGS

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## Presenters

Colleen Clase  
*Chief Counsel*  
Arizona Voice for Crime Victims

Meg Garvin  
*Executive Director*  
National Crime Victim Law Institute

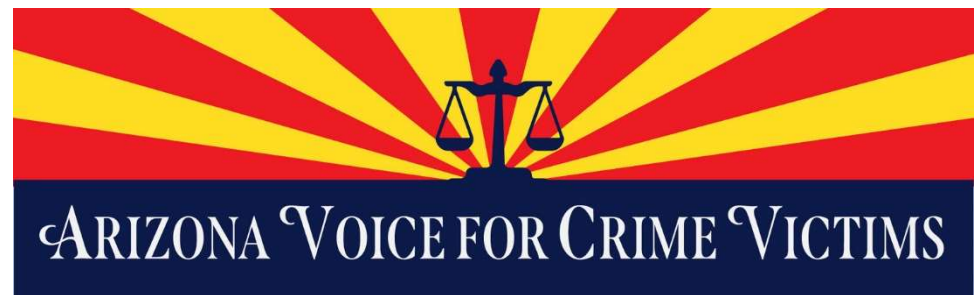
Rebecca Khalil  
*Dir. of Victim Assistance & Training*  
National Crime Victim Law Institute

Robert Swinford  
*Associate Attorney*  
Arizona Voice for Crime Victims

# Who is AVCV?

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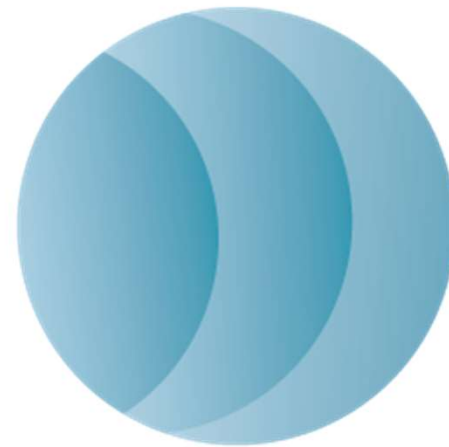
AVCV represents victims across Arizona for the purpose of asserting and enforcing victims' rights during state and federal prosecutions. AVCV provides pro bono representation to victims without limitation on the type of victimization.



# Who is NCVLI?

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Mission: To actively promote victims' rights and victim voices in the justice system through crime victim-centered legal advocacy, education and resource sharing.



**NATIONAL CRIME  
VICTIM LAW INSTITUTE**

# Learning Objectives

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*After this session, participants will be able to:*

- ❖ **LIST** 5 key victims' rights in Arizona
- ❖ **SPOT** key victims' rights issues in criminal and/or dependency proceedings
- ❖ **ARTICULATE** key similarities and differences between victims' rights attorneys and guardians ad litem
- ❖ **DESCRIBE** the importance of collaboration among actors when child-victims are in both criminal and dependency proceedings

# Victims' Rights in Arizona: An Overview



# Victims' Rights Protections in Arizona

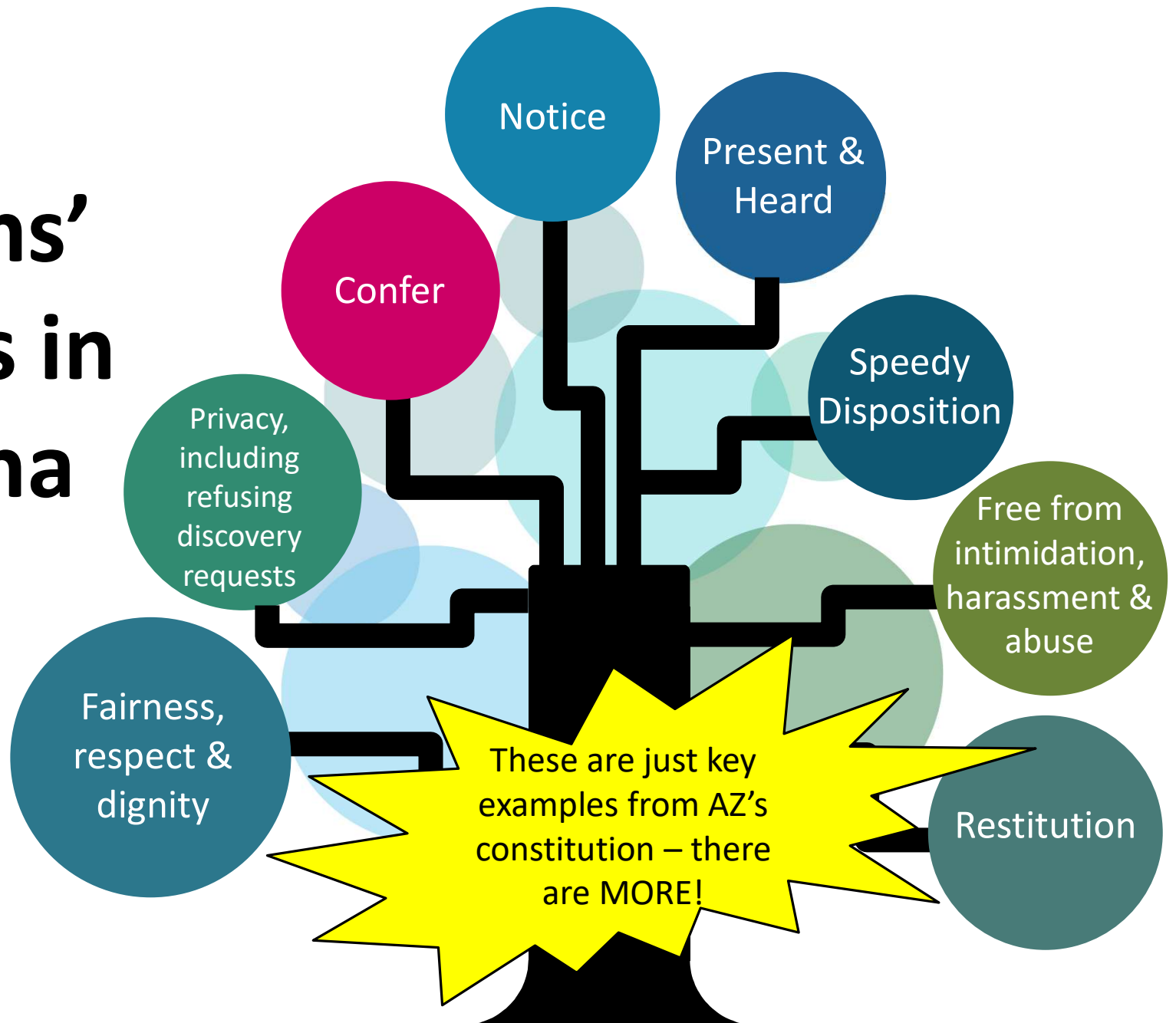
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Arizona's Constitution

Arizona's Statutes

Arizona's Rules

# Key Victims' Rights in Arizona



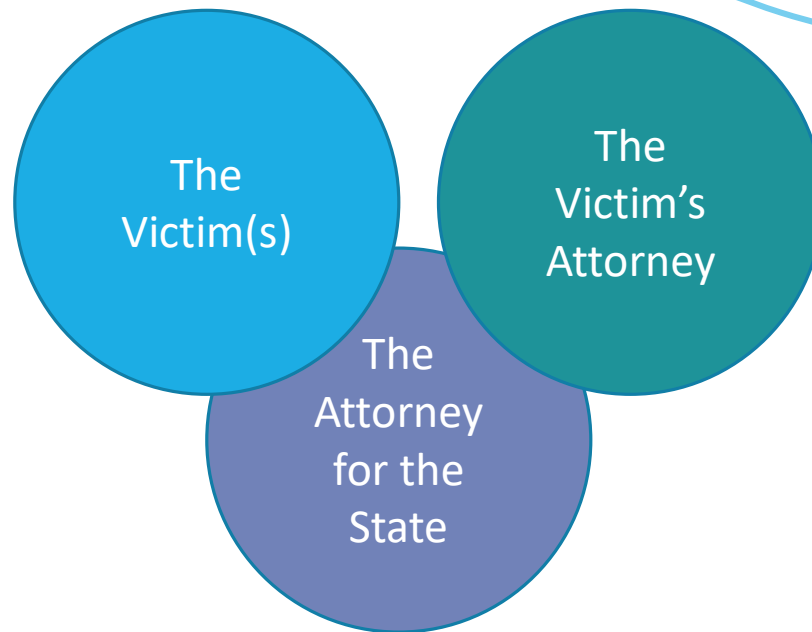
# When and where do victims' rights apply?

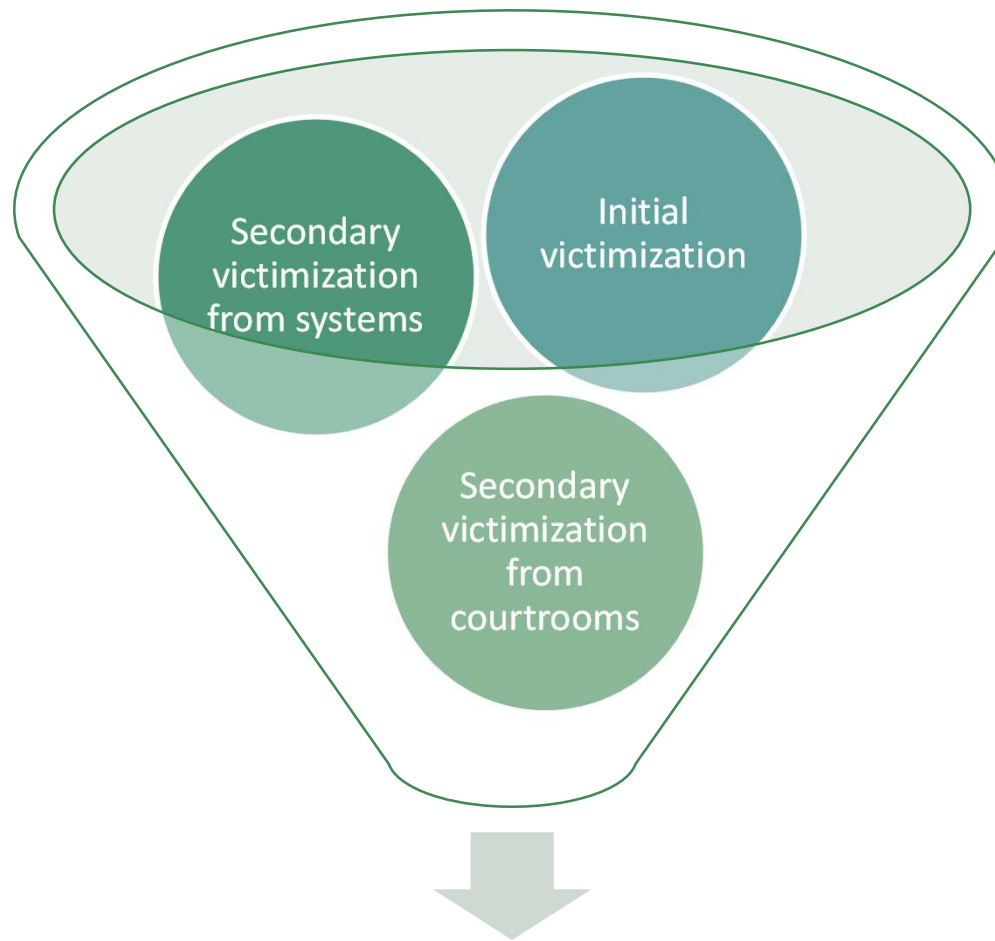


- Criminal
- Related Non-Criminal

*State v. Lee*, 245 P.3d 919 (Ariz. Ct. App. 2011).

Who can assert and seek enforcement of victims' rights?





Involvement in multiple systems can make this even more complicated!



When might victims' rights be at issue in cases involving related dependency proceedings?

## Key Rights:

- Privacy/Right to Refuse
- Protection/Free from Intimidation/Harassment/Abuse
- Right to be Heard

# Victims' Rights Attorneys vs. GALs



## Hypo #1: Daniel and Darin



Daniel is 14 years old and is living with a foster family, along with his younger brother, Darin. The boys' father died three years ago, and their mother, Angela, was recently criminally charged with abuse and neglect-related offenses committed against Daniel and Darin. Angela's attorney in the dependency proceeding is seeking access to Daniel's school records from a time period that includes both pre-foster care placement and post-placement – the records include both his disciplinary records and records of any meetings he may have had with the school counselor. The judge turns to the Assistant Attorney General and GAL and asks if they have any objection. The AAG asks for a moment to confer with the representative from DCS. Daniel's GAL waits to hear the AAG's position before answering the judge.

## Hypo #2: Annie



You are the GAL for Annie, a sixteen year old girl who was removed from her home after a teacher reported his belief that Annie was being sexually abused by her father, Chad. Criminal charges have not yet been formally brought against Chad, but you know that Chad's criminal defense attorney is negotiating with the prosecutor's office. Annie has been seeing a therapist, and Chad is seeking access to those records in the dependency proceeding. Annie doesn't really want to talk with you about the records; she says Chad can just have them because everything is "so messed up" already and "this might help." When you try to talk with Annie in more depth, explaining some of the privacy protections that apply, Annie gets frustrated, yelling at you to "just give him whatever he wants so this whole thing can go away." At this point, you do not think a waiver of privilege or disclosure of documents would be in Annie's best interests and are deciding what next steps to take.

## Hypo #3: Josh



Josh is an eight year old victim of physical abuse. His father has pled not guilty to the abuse. Josh is in the care of an aunt. In the criminal case, the judge ordered that his father have no contact with Josh; in the dependency proceedings, the judge allows supervised visits by his father. The GAL in Josh's case feels that the visits are in his best interest. Josh's aunt is worried and has argued with the GAL about the visits – Josh is frequently withdrawn and upset following visits with his father and consistently asks his aunt to cancel or not bring him to the scheduled visits. Josh's aunt mentions how upsetting the visits are to the prosecutor in the criminal case and asks why the criminal no-contact order isn't being enforced.

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# Questions?



# Wrap-Up

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*Participants are now able to:*

- ❖ **LIST** 5 key victims' rights in Arizona
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- ❖ **DESCRIBE** the importance of collaboration among actors when child-victims are in both criminal and dependency proceedings

# Save the Date!

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## **2021 Crime Victim Law Conference**


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November 11-13, 2021 | Portland, Oregon

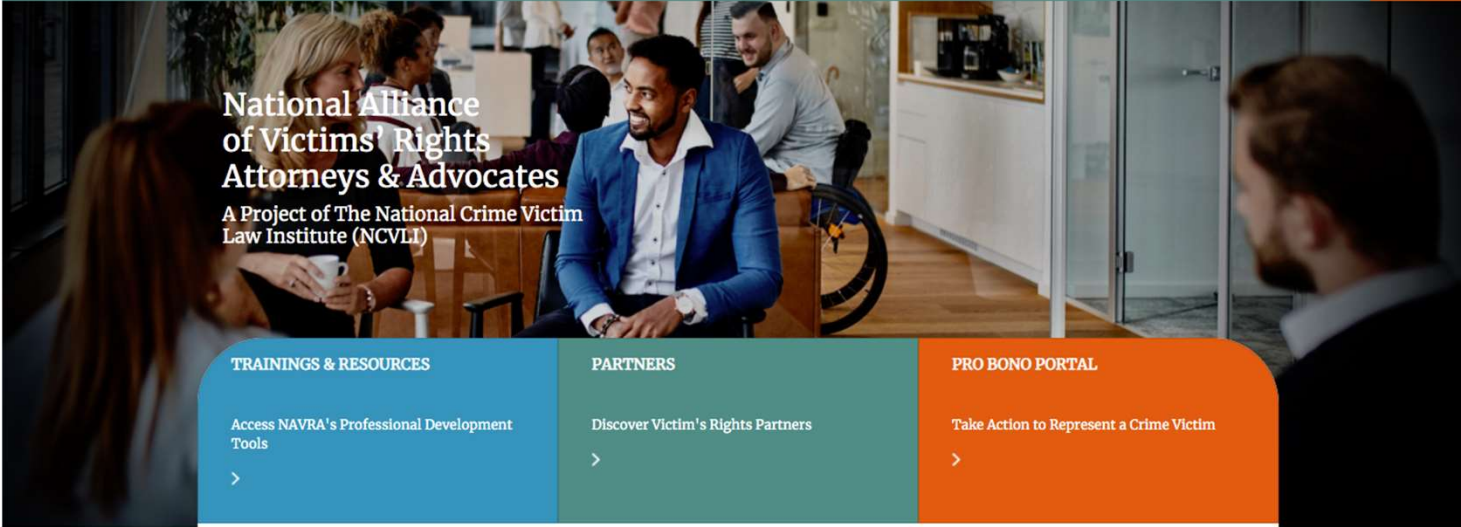
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RIGHTS ATTORNEYS & ADVOCATES

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Ryan Guilds is Counsel at international law firm Arnold and Porter, LLP, where his practice focuses on intellectual prop

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